

Remarks

The final Office Action mailed August 8, 2006 has been received and carefully considered. Claims 1, 12, 13, 19 and 21 are herewith amended to more clearly define the invention. Claims 31-35 are amended to correct an obvious clerical error. No change in the scope of claim 31-35 results. Claim 18 is canceled without prejudice to expedite prosecution of the application. Applicant reserves right to resubmit claim 18 and to broaden claims in the course of subsequent prosecution of the present application and in continuation practice. Applicant notes that this reservation of rights is made prior to allowance of any claims, and is therefore believed to be distinguishable from any such reservation made with the filing of a continuation application. Claims 1, 3-16, 19, 21, 22, 24 and 31-35 are now pending in the application. Each of these claims stand rejected.

Applicant thanks the Examiner for acceptance of the drawings filed on July 27, 2005, and for the acknowledgment of domestic priority under 35 USC §119 (e).

Applicant also thanks the Examiner for identifying obvious typographical errors in the previous presentation of claims 18 and 21. As noted above, claim 18 is canceled and the status indicator of claim 21 is corrected.

The comments of the Office Action in relation to "publication" of an electronically distributed document are noted. Applicant respectfully notes, however, the limited distribution of the present software and that distribution of the subject documents was only ancillary to distribution of the software. Consequently, the subject documents have not been "disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can

locate it." *In re Wyer*, 655 F.2d 221, 210 USPQ 790 (CCPA 1981). Accordingly, Applicant believes that the *In re Wyer* standard for publication is not met.

In addition, Applicant respectfully traverses the assertion of the Patent Office that the "CADDstar Version 5.2 Help Document" qualifies as prior art under 35 USC §102(a). As discussed in additional detail below in the section on rejection under 35 USC §103(a), the Help Document in no way demonstrates that the invention was "known or used by others in this country... before the invention thereof by the applicant."

Claim rejections under 35 USC §101

Applicant notes that the previously pending rejections under 35 USC §101 have been withdrawn, and thanks the Examiner for this action.

Claim rejections under 35 USC §112

With respect to the rejection of claims 1, 3-12, and 31-35 under 35 USC §112, first paragraph, the Office Action notes (page 6, heading 7, paragraph 2) that the "provisional application has been incorporated by reference," and goes on to state that "[t]he provisional application is naturally unpublished."

Applicant respectfully disagrees. The provisional applications whose benefit is claimed by this application are available online in their entirety from the Public PAIR system of the United States Patent and Trademark Office. Access to these documents is available by direct link from the PAIR record of the present application. Accordingly, the provisional applications are readily available in indexed fashion to one of ordinary skill in the art, and the provisional applications in question constitute published documents. As

such, withdrawal of the rejections of claims 1, 3-12 and 30 1-35 under 35 USC §112, first paragraph, is believed to be in order.

With respect to the rejection of claim 21 under 35 USC §112, first paragraph, applicant respectfully notes that the specification describes preparing a red-line drawing 1220 by the field technician based on the existing system graphic using the laptop computer; uploading the red-line drawing 1230 from the laptop 1100 to workstation 1140 by way of the intervening network 1110 and servers 1120,1130; evaluating the red-line drawing 1240 by a supervisor based on graphical display of the red-line drawing on the workstation 1140.... Emphasis added. Page 36, line 11- page 37, line 1.

Applicant respectfully submits that a "markup line" would be understood by one of skill in the art as intrinsic to a redline document. In light of the above-noted disclosure, one of ordinary skill in the art would readily understand that the term "markup line" refers to a visual indication of a change proposed or made to a plan record. Therefore, the rejection of claim 21 under 35 USC §112, first paragraph, is overcome.

Inasmuch as claims 22 and 24 each depend directly from claim 21 and are rejected on the same grounds, the rejection of claims 22 and 24 under 35 USC §112, first paragraph, are overcome for at least the same reasons as given above in relation to claim 21.

With respect to the rejection of claim 33 under 35 USC §112, first paragraph, Applicant respectfully submits that the claim language of "a fiber reel having an uneven buffer count" is supported by the disclosure of beneficial United States Provisional Patent Application 60/234,303 which describes "[o]dd fiber/buffer counts for tapered fiber segment support." Page 19. Therefore the rejection of claim 33 under 35 USC §112, first paragraph, should be withdrawn.

With respect to the rejection of claim 34 under 35 USC §112, first paragraph, Applicant respectfully submits that the claim language of "a fiber reel including 36 buffers" is supported by the disclosure of beneficial United States Provisional Patent Application 60/234,303 which describes "fiber reels" which "[s]upports fiber counts up to 2,592 fibers /reel – [u]p to 36 buffers per reel – [u]p to 72 fibers per buffer or bundle." Page 19. Therefore the rejection of claim 34 under 35 USC §112, first paragraph, should be withdrawn.

Claim Interpretation

Regarding the claim interpretations identified in the Office Action, Applicant responds as follows. In relation to the phrase "detail drawing," section 16.1 of provisional application 60/236,040 states that "[t]o create a new detail drawing... a dialog box will appear asking if you want to, 'Create a new detail drawing?' You will then be prompted to name the detail drawing..." Applicant respectfully submits that the term "detail drawing" thus refers to a discrete entity that can be "separately identified." The detail drawing is therefore not a functional equivalent of merely magnifying (zooming in on) an otherwise existing entity.

As discussed above, with regard to the phrase "markup lines," the specification describes:

preparing a red-line drawing 1220 by the field technician based on the existing system graphic using the laptop computer; uploading the red-line drawing 1230 from the laptop 1100 to workstation 1140 by way of the intervening network 1110 and servers 1120,1130; evaluating the red-line

drawing 1240 by a supervisor based on graphical display of the red-line drawing on the workstation 1140.... Emphasis added. Page 36, line 11- page 37, line 1.

As discussed above, applicant respectfully submits that a "markup line" would be understood by one of skill in the art as intrinsic to a redline document. In light of the above-noted disclosure, one of ordinary skill in the art would readily understand that the term "markup line" refers to a visual indication of a change proposed or made to a plan record. Accordingly, "modifying said graphically represented logical model" would not teach or suggest a markup line since "modifying to graphically represented logical model" would not necessarily provide any visual indication that a change had been made.

Claim rejections under 35 USC §102

Applicant notes the withdrawal of the previous rejections under 35 USC §102 (b) with appreciation.

Claims 1, 3-16, 18-19, 21-22, 24 and 31-35 stand rejected under 35 USC §102(a) over the "CADDstar Version 5.2 Help Document." Applicant respectfully traverses the rejections.

35 USC §102(a) states that "[a] person shall be entitled to a patent unless -- (a) the invention was known or used by others in this country, or patented or described in a printed publication... before the invention thereof by the applicant for patent..." (emphasis added). 35 USC §102(a).

If necessary, Applicant is prepared to swear behind the CADDstar Version 5.2 Help Document. Applicant respectfully submits, however, that this formality should not be required, since the CADDstar Version 5.2 Help Document embodies the Applicant's own description of the invention and thus cannot logically predate the claimed invention. Accordingly, the rejections of claims 1, 3-16, 18-19, 21-22, 24 and 31-35 under 35 USC §102(a) over the CADDstar Version 5.2 Help Document should be withdrawn.

Claims 13-16, 18, 19, 21-22 and 24 stand rejected under 35 USC §102(b) over the CADDstar Version 5.0 Help Manual and/or the CADDstar Version 3.81 Help Manual. Claims 18 is canceled, and the rejections thereof are accordingly moot.

The Office Action states that "[n]one of claims 13-16, 18, 19 or 21-24 appear to draw support from sections 16.0-16.11 of the '040 application. Therefore the Examiner concludes that these claims are anticipated by the 'CADDstar Version 5.0 Help Manual 'and/or 'CADDstar Version 3.81 Help Manual'."

Applicant respectfully disagrees. Applicant notes that both beneficial United States Provisional Patent Application 60/234,303 (incorporated by reference) and the present application include disclosures that are not found within the CADDstar Version 5.0 Help Manual or the CADDstar Version 3.81 Help Manual. Accordingly, Applicant respectfully requests that the Patent Office specifically identify any grounds for rejection of the subject claims. Absent such specific identification of grounds, Applicant respectfully submits that the rejections of claims 13-16, 19 and 21-24 should be withdrawn.

In addition, Applicant notes that claim 13 as amended includes the features of "a detail drawing portion adapted to record a separately identified detailed layout of a network within a multiple dwelling unit," (emphasis added). Claim 13 has been amended

to change the term "detail notes" to "detail drawing." This change is made merely for linguistic consistency and is not believed to change the scope of the claim.

Claim 19 includes the features of "first and second optical fibers... wherein said first and second fibers include respective fiber segments identified to respective owners," (emphasis added). Claim 21 includes the features of "transmitting... [a] modified logical model to said first computer and subsequently receiving authorization at said second computer for said operatively connecting said first and second physical communication cables," (emphasis added). These features, at least, are believed to patentably distinguish the respective claims from the references now of record. Therefore, for the foregoing and other reasons, the rejections of claims 13, 19 and 21 under 35 USC §102(b) over 'CADDstar Version 5.0 Help Manual 'and/or 'CADDstar Version 3.81 Help Manual' should be withdrawn.

Claims 14 -16, 22 and 24 each depend from claims 13 and 21 respectively, and incorporate the respective limitations thereof. Accordingly, the rejections of claims 14-16, 22 and 34 under 35 USC §102(b) over 'CADDstar Version 5.0 Help Manual 'and/or 'CADDstar Version 3.81 Help Manual' should be withdrawn for at least the reasons given above.

Claim rejections under 35 USC §103(a)

Claims 1, 3-9 and 12 stand rejected under 35 USC §103(a) over United States Patent Number 6,499,006 to Rappaport (*hereinafter* Rappaport). Applicant respectfully traverses the pending rejections.

The present invention relates to a system and method for network infrastructure management. Claim 1 recites:

A method for deploying a fiber optic communication network comprising: storing an attribute of an optical communication component in a computer catalog database entry; associating said catalog database entry with a design profile; selecting said database entry from said design profile; reading said attribute from said database entry; associating said attribute with a planned deployment of a physical instance of said component; and forming a visible image representing said planned deployment, said visible image including a separately identified detail drawing.
Emphasis added.

In contrast, the Rappaport reference relates to "[a] method for displaying the results of a predicted wireless communication system performance as a three-dimensional region of fluctuating elevation and/or color within a three-dimensional computer drawing database consisting of one or more multi-level buildings, terrain, flora, and additional static and dynamic obstacles (e.g. automobiles, people, filing cabinets, etc.)."

In rejecting claim 1 over Rappaport, the Patent Office relies on the argument that "zoom[ing] in on an area of interest presents a 'detail drawing', i.e. a visual representation of the environment in greater detail." Applicant respectfully traverses this argument.

In order to render an invention obvious under 35 USC §103(a) a reference, or combination of references, must teach or suggest every element of the claimed invention. As discussed above in the section entitled "Claim Interpretation," section 16.1 of provisional application 60/236,040 states that "[t]o create a new detail drawing... a dialog box will appear asking if you want to, 'Create a new detail drawing?' You will then be prompted to name the detail

drawing..." Applicant respectfully submits that the term "detail drawing" thus refers to a discrete entity that can be "separately identified." The detail drawing is therefore not a functional equivalent of merely magnifying (zooming in on) an otherwise existing entity.

The Rappaport reference in no way teaches or suggests "a separately identified detail drawing." Therefore, the rejection of claim 1 under 35 USC §103(a) over Rappaport is overcome, and allowance of claim 1 is in order.

Claims 3-9 and 12 each depend, directly or indirectly, from claim 1 and incorporate every limitation thereof. Accordingly, for at least the reasons given above in relation to claim 1, the rejections of claims 3-9 under 35 USC §103(a) over Rappaport are also overcome.

Claims 10, 11, 21, 22 and 24 stand rejected under 35 USC §103(a) over Rappaport in further view of United State patent number 5,761,432 to Bergholm (*hereinafter* Bergholm). Applicant respectfully traverses these rejections.

The Bergholm reference relates to an "attribute design database system [that] provides for inventory management, order process management and design management... in a telecommunications management network provisioning environment." Abstract.

Claims 10 and 11 each depend directly from claim 1 and incorporate every limitation thereof. Even accepting, *arguendo*, the propriety of combining Bergholm with Rappaport, the proposed combination does not remedy the deficiency of Rappaport discussed above. Specifically, Rappaport and Bergholm, whether taken alone or in combination, do not teach or suggest "a separately identified detail drawing" as recited in claim 1. Accordingly, the rejections of claims 10 and 11 under 35 USC §103(a) over

Rappaport in view of Bergholm should be withdrawn.

Claim 21 recites in part:

A method of deploying a communications network comprising:
providing first and second computers including first and second memory storage devices ...including a logical model of a communications network within said first storage device...receiving said logical model through said link into said second computer memory device; representing said logical model graphically;...modifying said graphically represented logical model using markup lines; ...transmitting said modified logical model to said first computer and subsequently receiving authorization at said second computer for said operatively connecting said first and second physical communication cables. Emphasis added.

The Office Action acknowledges that Rappaport does not teach or suggest a system of computers including “operatively connecting said first and second physical communication cables.” In addition, the Office Action acknowledges that neither Rappaport nor Bergholm teach receiving authorization for said operatively connecting said first and second communication cables.

The Bergholm reference states that:

The supervisor can then define some people as being allowed to design while other people will only be allowed to do inventory browsing and still others may only be provided with the capability of doing inventory updating. Column 5, lines 18-22.

The Bergholm design function is completely different from that of the present invention. According to Bergholm:

Designing a link is a complex process that can involve several iterations if an aggregate link includes a number of component links. The link design process consists of the following tasks: assigning links between offices (inter-office links); assigning links in an office (intra-office links); verifying the link design; and completing the design activity. There are tasks related to performing these four basic tasks. These related tasks include inserting or releasing offices as necessary, reversing or flipping an office orientation, assigning plug-ins, and viewing equipment and link properties. In the design window office objects representing termination points are shown as dummy links. Inter-office links between two termination points can be done by manual assignment or by an auto-select/assignment. Thus, the user can either specifically manually design the inter-office links or under the appropriate conditions can allow the system to auto-select and decide links. The need for manual inter-office link assignment arises particularly where facilities between two termination points are not available in your original design. Thus, an alternative link must be constructed.

As acknowledged by the Patent Office, neither the connection nor the authorization features of claim 21 are in any way suggested by Bergholm. Indeed, absent the use of impermissible hindsight, there is nothing in the Rappaport and Bergholm references, whether taken alone or in combination, to teach or suggest the claimed features of "receiving authorization at said second computer for said operatively connecting said first and second physical communication cables," among others. Accordingly, the rejection of claim 21 under 35 USC §103(a) over Rappaport in view of Bergholm is overcome.

Claims 22 and 24 each depend directly from claim 21 and incorporate every limitation thereof. Accordingly, for the reasons given above in relation to claim 21, rejection of claim 22 and 24 under 35 USC §103(a) over Rappaport in view of Bergholm are also overcome. Allowance of these claims is therefore in order.

Claim 13-16, 18 and 19 stand rejected under 35 USC §103(a) over Rappaport in view of Bergholm and in further view of United States patent number 5,821,937 to Tonelli (*hereinafter* Tonelli). As noted above, the rejection of claim 18 is rendered moot by cancellation of the claim.

Claim 13 recites, *inter alia*, "A system for planning a network comprising:...software including a detail drawing portion adapted to record a separately identified detailed layout of a network within a multiple dwelling unit," (emphasis added).

Even accepting, *arguendo*, the propriety of combining Rappaport with Bergholm and Tonelli, the proposed combination does not teach or suggest every feature of the claimed invention. The Office Action asserts that Tonelli teaches a "detail notes portion," relying on figure 11, reference 116' and figure 30, reference 310.

Tonelli relates to "[n]etwork audit software that is used to discover and document a network configuration [including a] ... suite of probes using one or more communication protocols [to query] ... device is on a network to discover network information, which information is consolidated in an electronic database." Column 4, lines 25-30.

The Tonelli reference describes figure 11, as "a computer screen display of a network application design window including a simple two device network." Column 3, lines 20-23. Reference 116' is referred to as follows:

The user then selects an AST GX PC 116 from the upper left corner of device palette 26, drags the device to a room 118, and drops the device as AST GX PC 116'. The device objects corresponding to icons 112' and 116' are instantiated on the design sheet by the network design software according to the templates stored the device database. As a result, the instantiated device objects accurately reflect the characteristics of actual network devices. Column 8, lines 23-30.

Accordingly, it is clear that reference number 116' identifies a device, and not a "detail drawing" as recited in claim 13. Reference number 116' in no way identifies a separately identified detailed layout according to the claimed invention.

Tonelli describes figure 30 as "a computer screen display of validation results window and a design error message box." Column 3, lines 51-52. Reference number 310 identifies "portion of [a]... corresponding standard, for example, the Ethernet specification 310." Column 15, lines 19-21.

In light of the foregoing, there is nothing in Tonelli or any of the references now of record to teach or suggest "[a] system for planning a network comprising:...software including a detail drawing portion adapted to record a separately identified detailed layout of a network within a multiple dwelling unit."

Since the proposed combination of references does not teach or suggest every feature of claim 13, the rejection of claim 13 under 35 USC §103(a) over Rappaport in view

of Bergholm and in further view of Tonelli should be withdrawn. Applicant respectfully submits that 13 should be allowed.

Claims 14-16 each depend, directly or indirectly, from claim 13 and incorporate every feature thereof. Accordingly, for at least the reasons given above in relation to claim 13, the rejections of claim 14-16 under 35 USC §103(a) over Rappaport in view of Bergholm and in further view of Tonelli should be withdrawn.

Claim 19 recites, in part:

A system for planning a network comprising: a...catalog portion adapted to receive data defining a plurality of communication network components...one of said communication network components including an optical cable having a buffer with first and second optical fibers, said optical fibers having different nominal characteristics wherein said first and second fibers include respective fiber segments identified to respective owners.

The Patent Office acknowledges that Rappaport does not teach an optical cable having a buffer with first and second fibers with different nominal characteristics. Without further support, the Office Action asserts that this group of components would be included in the computer parts database taught by Rappaport. Even if, *arguendo*, this were the case, there is nothing in the proposed combination of Rappaport, Bergholm and Tonelli to teach or suggest the claimed combination of features including "optical fibers having different nominal characteristics wherein said first and second fibers include respective fiber segments identified to respective owners." Applicant respectfully submits that there is nothing in "an optical cable having a buffer with first and second optical fibers, said optical fibers having different nominal characteristics" that intrinsically

teaches or suggests "first and second fibers include respective fiber segments identified to respective owners."

Accordingly, the rejection of claim 19 under 35 USC §103(a) over Rappaport in view of Bergholm and in further view of Tonelli is overcome. Therefore, allowance of claim 19 is believed to be in order.

In light of the foregoing arguments and amendments, all claims in the application are believed to be patentably distinguishable over the prior art of record. Accordingly, allowance of all claims is believed to be in order. Applicant therefore earnestly solicits the allowance of all claims and prompt passage of this application to issue.

A petition for a three (3) month extension of time is transmitted herewith, along with the requisite fee. If required, the Commissioner is hereby petitioned, under 37 C.F.R. § 1.136 (a), to extend the time for filing a response to an outstanding Office Action, or any communication filed in this application by this firm, by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 50-3950 of Bergman & Song LLP, under Order No. H0630-0003-P003.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (617) 868-8871 in Cambridge, Massachusetts.

Dated: February 28, 2007

Respectfully submitted,

By 

Michael Bergman

Registration No.: 42,318

Bergman & Song LLP

PO Box 400198

Cambridge, MA 02140

617-868-8871

Attorneys for Applicant